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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
Registration T.A.NO. 1412 of 1987

Anil Kumar

....

Applicant

Vs.

Union of India & Others....

Respondents

Hon'ble Mr.Justice U.C.Srivastava,V.C.

Hon'ble Mr.A.B. Gorthi, Member (A)

(By Hon.Mr.Justice U.C.Srivastava,V.C.)

The applicant was appointed as a substitute(Class IV employee) in the Eastern Railway on 5.5.80 and he worked upto 31.1.84 though with some breaks in his service. Though with effect from 1.2.1983 till 31.5.1983 he continuously worked as a substitute, but the fact that he worked for 278 days between the period 27.1.83 to 27.12.83 has not been denied. The applicants claim that he having been in continuous service of 278 days i.e. more than 240 days he was entitled for the benefit of Section 25-F of the Industrial Disputes Act, but his services were terminated without compliance with the provisions of Section 25-F of the Industrial Disputes Act. It has been further stated by the applicant that those who were juniors to him have/retained been in service and the applicant's name has been deleted from the list of the substitutes.

2. The respondents have resisted the claim of the applicant and pleaded that though he worked for 278 days continuously in a particular year no rights of the temporary status could be conferred upon him, But so far as/the juniors are concerned the explanation has not been given by the respondents. The services of the applicant have/been terminated because the sanction for the same has not been received and the name of the applicant has been deleted from the list of the substitute. Obviously the applicant had attained the temporary status and his services could not be terminated in the manner in which it has been done.

Of course the employer has power to do so but as the applicant had attained a particular status the provision in which the services of the applicant could have been terminated is not followed. Accordingly in these circumstances the order of termination from service deserves to be set aside, and the applicant's name shall also be included in the list of substitutes. <sup>with due seniority</sup> In case the juniors are still continued, the applicant shall also be allowed to continue. However, <sup>we</sup> make it clear that although the applicant will be treated to be continuing in service as substitute (Class IV employee) but he will not be entitled to claim or get any salary from the date of termination upto 1st January, 1992. If the respondents will not take work from him with effect from that date they will pay him salary regularly. With these observations the application stands disposed of. No order as to costs.

*Shanbhag*  
Member (A)

*LG*  
Vice-Chairman.

27th November, 1991, Alld.

(spb)